



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/803,616	03/18/2004	Jonathan Barsade	BAR-6	5894
24039	7590	11/24/2009	EXAMINER	
INNOVAR, LLC			ERB, NATHAN	
P O BOX 250647			ART UNIT	
PLANO, TX 75025			PAPER NUMBER	
			3628	
			MAIL DATE	
			DELIVERY MODE	
			11/24/2009	
			PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/803,616

Applicant(s)

BARSADE ET AL.

Examiner

NATHAN ERB

Art Unit

3628

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 September 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 5 and 7-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 5, and 7-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/GS/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 3, 2009, has been entered.

Response to Arguments

2. Applicant's response to Office action was received on September 3, 2009.
3. In response to Applicant's amendment of claim 1, the claim rejections under 35 U.S.C. 101 from the previous Office action are hereby withdrawn.
4. Please note the new rejections of claims 1, 5, 7-20, and 24 under 35 U.S.C. 112, second paragraph, below in this Office action.
5. In response to Applicant's amendment of the claims, the corresponding prior art claim rejections have been correspondingly amended below in this Office action.
6. Regarding the prior art rejections, Applicant first argues:

Applicants' prior comments of record are equally applicable here as well. Applicants agree with Examiner that Agee et al., in fact, places the tax payment system (the third party service provider) as an intermediary between the buyer and the seller. That is a key distinction from the instantly claimed system. In all embodiments (FIGS. 1B, 2B, 3B, 3D, and 7B; Para. [0053], [0055], [0058], [0072], [0084], [0086]), wherein Agee et al. discloses a "payment processing gateway" in combination with a "third party service provider" (the tax system), the information and data transmission pathways go from the merchant to the payment processing gateway to the third party service provider and then outward to the financial network. In no instance, does the payment processing gateway

of Agee et al. communicate directly with the financial network whenever the "third party service provider" is present.

(Applicant's response, p. 10, second paragraph). In response to this argument, Examiner notes first that the embodiment of Agee that Examiner is using in the prior art rejections is the one in which the tax system is separate from the third party service provider. See Agee, paragraph [0084], which states:

The third-party service provider computer 62A may forward the information to a computer 64A at a tax service provider 64 (line AJ in FIG. 7B) for determination of allocation of tax funds to various taxing entities. The tax service provider computer 64A then returns the information, including the tax allocation information, to the third party service provider computer 62A (line AK in FIG. 7B), which forwards the information to a computer 161A at a debit clearing house 161.

Agee, paragraph [0084], later states: "In further embodiments, the third party service provider 62 and the tax service provider 64 may be a single entity, and the third party service provider computer 62A and the tax service provider computer 64A may be a single unit." Therefore, in Agee, the third party service provider may either be the same, or a different, entity from the tax system. For the purposes of the prior art rejections, Examiner is using the alternative in which the third party service provider is a separate entity from the tax system.

Secondly, as was discussed in the Final Office action, dated May 28, 2009, and indicated in the prior art rejections below in this Office action, for purposes of the prior art rejections, Examiner is interpreting the third party service provider system of Agee to be a payment processing gateway, as opposed to the system which Agee labels as a "gateway" being interpreted as the payment processing gateway. Therefore, it is not relevant that the system labelled as "gateway" by Agee does not correspond to the

payment processing gateway in Applicant's claims, for purposes of arguing against Examiner's prior art rejections.

7. Applicant's next argument states:

Applicants respectfully submit that the disclosure of Agee et al. fails to provide what Sullivan et al. is missing. Examiner appears to be improperly extending his analysis beyond the scope of disclosure of Agee et al. Agee et al. repeatedly identify the Gateway and Third Party Service Provider separately and distinctly from one another. In no instance does Agee et al. disclose that the functions performed by the gateway can be included in the third party service provider. In each case, Agee et al. only disclose that the gateway "may be bypassed" ([0070], [0083]-[0085], [0044], [0055]). Agee et al. do not disclose that the functions of the gateway can be incorporated into the third party service provider. In no instance does Agee et al. disclose that the functions of the gateway and third party service provider are interchangeable, as inferred by Examiner.

(Applicant's response, p. 10, last paragraph). In Examiner's view, this quotation gets at the current fundamental issue in this application, with respect to the prior art rejections: can the third party service provider of Agee properly be considered a payment processing gateway, as Examiner has interpreted? Examiner believes that it can, under the following reasoning. Regarding Applicant's comments in the immediately preceding quotation, Applicant appears to place great emphasis on the name given to an element in Agee in determining what the element is. While Examiner agrees that the name given to an element is relevant to determining what the element is, it should not be the single controlling factor. Examiner believes the ultimate question as to what an element is should be whether or not it matches the definition of a term in question. For example, a reference could label an item as "a government-required transaction-based fee," which could be interpreted to be the same as a "tax," even though it is not labelled in the reference as a tax, as long as it matches the definition of a tax. Therefore, the mere

fact that the third party service provider in Agee is not called a gateway by Agee does not decide the issue of whether the third party service provider may be considered a payment processing gateway for purposes of rejecting Applicant's claims.

Secondly, the mere existence of another element in Agee labelled "gateway" by Agee does not preclude the third party service provider from, in fact, being a gateway itself. Again, Examiner argues that the ultimate question deciding this issue is whether or not the third party service provider matches the definition of a payment processing gateway. There is no reason to believe that there may be only one element at a time in Agee which may be considered to, in fact, be a gateway. Furthermore, it is actually quite reasonable to believe that, in the embodiments of Agee in which the element labelled "gateway" is bypassed (see Agee, paragraph [0084]), another element may be taking over the functions of the bypassed gateway.

Moving to the question then of whether or not the third party service provider system of Agee meets the definition of a "payment processing gateway," it is first necessary to determine the definition of a "payment processing gateway." Looking to Applicant's specification, Examiner was unable to find an explicit definition of "payment processing gateway." However, Applicant's specification does describe the "payment processing gateway" in several passages:

A. "The present invention is discussed in the illustrative context of use in the authorization of an online transaction conducted over the Internet, in which the authorization request is processed through an Internet Payment Processing Gateway,

providing gateway services to a merchant." (Applicant's specification-as-filed, p. 20, lines 23-25).

B. "Authorization Process--FIG. 1 depicts the prior art process in which transaction data is transferred to the acquiring bank. In one embodiment the transaction data is transferred from the consumer to the systems of the merchant, which would then transfer said transaction data to the acquiring bank through a payment gateway. In an alternative embodiment, the transaction data is transferred to the acquiring bank from the Consumer through the payment gateway, without passing through the systems of the online merchant. In yet an alternative embodiment the transaction data is passed to the acquiring bank from the merchant directly, not through the systems of a payment gateway." (Applicant's specification-as-filed, p. 21, lines 13-20).

C. "Oftentimes, a third party gateway may be involved in the early phase of the Authorization Process, providing third party services to the merchant. The Gateway may interact either directly with the customer, effectively bridging between the customer and the merchant bank (acquirer) at the billing authorization phase (so that the merchant is in effect taken out of the loop at this phase, and is provided with transaction data after the effect). Alternatively, the merchant might use software provided by the gateway companies, or other 3rd party vendor software, that manages the billing phase of the transaction. Such software might be installed upon, and run from, the server systems of 3rd party providers ("ASP") or directly installed and run from the merchants' systems. According to one embodiment, the billing software is installed and run from

the node (computer system) of one or more 3rd party providers." (Applicant's specification-as-filed, p. 21, line 29, through p. 22, line 8).

D. "A third party Internet Payment Processing Gateway may be involved in the initial phase of transferring the merchants' notice of fulfillment to the financial network." (Applicant's specification-as-filed, p. 22, lines 15-16).

E. "The Transaction Data is forwarded via a transaction-authorization request to an Acquirer in a process as depicted in FIG. 1, such as via a 3rd party payment gateway. The request includes the credit card number and other transaction related data, and may include security information, date, Merchant information and transaction amount. This amount may include sales tax or use tax if the Merchant has implemented a sales tax collection system within their internal transaction system. The transaction authorization request is then forwarded from the Acquirer Bank to the Issuer via the Association. Upon issuance of an authorization response by either the Issuer Bank or the Association, the response is returned to the Merchant, via the Acquirer and the Gateway. The Merchant will then conclude the transaction with the Consumer based upon the transaction-authorization response received." (Applicant's specification-as-filed, p. 23, lines 3-12).

F. "The Merchant is an on-line retailer with whom the consumer typically interacts for the online transaction. As used herein, the term "merchant" is a person or business that provides a service and/or good. The merchant is usually the party who is responsible for collecting and dispensing of sales tax. The Merchant's shopping cart and shipping systems will usually interact with the third party Internet Payment

Processing Gateway systems. The Merchant will usually also be the recipient of funds transferred for payment on account of the underlying transaction. Funds are usually received directly into the Merchant's accounts managed upon the systems of the Acquirer bank, and are not transferred through the Internet Payment Processing Gateway.

The Internet Payment Processing Gateway is usually an on-line third party that would provide a gateway from the on-line presence of the merchants into the financial networks, typically the Acquirer bank and the credit-card processors (akin to the credit card swiping machine that is encountered at the retailer's physical store, and that its sole function is to connect the merchant to the credit-card processor). Gateways may render their services by providing either:

(i) Direct processing services--the merchant merely displays the Gateway's transaction page, which is actually hosted on the gateway's secured server. The customer inputs their transaction information directly into this page, i.e. directly into the systems of the gateway; or

(ii) Processing software that the merchants integrate into their own systems, and which they use to enable their systems to interact directly to the processor and the merchant bank. In this method, the customer inputs their transaction data into the systems of the merchant, which is then transferred to the gateway or to the processing bank.

The Gateway may provide the merchant's software modules (COM components) that collect the credit card and billing information, and capture the customer's

transaction data from the merchant's secured page, connect and transfer the data to the gateway's systems" (Applicant's specification-as-filed, p. 24, line 13, through p. 25, line 8).

G. "As part of the transaction data received by the Gateway, the merchant's computer system verifies shipping information (confirmation of shipping or of intent to ship) and sends fulfillment notification and payment capture data to the Gateway. The Gateway, in turn, forwards the authorization and fulfillment data to a credit card financial network, which in one embodiment comprises the merchant's bank, the association, and the customer's issuer bank. When appropriate, funds are then transferred to the Merchant in payment of the good and/or service obtained by the customer, and the customer is billed by the issuer bank for payment made to the merchant. An alternative embodiment would include a scenario where tax calculation services are requested by the systems of the Gateway in relation to the transaction and forwards authorization, fulfillment and payment capture data to the system of the present invention (see below) that determines the tax due to a taxing authority, transfers tax funds to the taxing authority and send an invoice to the merchant for amounts owing." (Applicant's specification-as-filed, p. 25, line 21, through p. 26, line 3).

H. "In an exemplary transaction, while being forwarded for authorization by the issuing bank, transaction financial data of an on-line transaction, would be intercepted by the transaction client agent as it enters into the client systems, such as those maintained by a financial gateway providing Internet gateway services to an on-line merchant. The transaction data would be transferred by the transaction client agent to

the Tax Transaction Processor of the 3rd Party Fee System for tax processing.”

(Applicant's specification-as-filed, p. 28, lines 12-17).

I. “FIG. 7 depicts, for example, the disclosed invention being integrated into the systems of the Internet Payment Processing Gateway or the Merchant bank if payment gateway is not involved, where a billing software program forwards the transaction data to the systems of the Gateway. In this embodiment, the 3rd Party Fee System Client Transaction Agent is inserted into the systems of the gateway/Merchant Bank, and may intercept the transaction authorization request once the transaction request enters into the systems of the Gateway/Merchant Bank. FIG. 8 depicts, for example, the transaction client agent of the disclosed invention is integrated into the systems of the Internet Payment Processing Gateway where the billing page is hosted in the systems of the Gateway. In this scenario, the 3rd Party Fee System Client Transaction Agent would intercept the transaction authorization request once the user hits the submit button in the gateway-hosted billing page.

FIG. 9. depicts an exemplary transaction flow of the fulfillment request part of the financial transaction, as practiced by the prior art. Upon conclusion of its part of the transaction, a Merchant may submit a fulfillment statement for the amount owed under the concluded transaction. Such requests may be submitted via a third party Internet Payment Processing Gateway, which may batch several requests, and forward them into the financial network, such as the Acquirer Bank. The Internet Payment Processing Gateway might not be reimbursed for their services from the financial network and might

instead be reimbursed by way of issuing periodic invoices to the Merchant for services rendered." (Applicant's specification-as-filed, p. 31, line 28, through p. 32, line 17).

J. "In different embodiments, the 3rd Party Fee System client Transaction Agent is implemented at different phases of the transaction authorization flow, such as immediately after the transaction check-out module that is part of the Merchant's shopping cart, or in the systems of the gateway providing Internet gateway services to the merchant, or upon the systems of the acquirer bank." (Applicant's specification-as-filed, p. 33, lines 22-26).

K. "The 3rd Party Fee System Client Tax Fulfillment Agent may be implemented at different phases of the transaction flow, such as immediately at the Internet Payment Processing Gateway, in the systems of the acquirer bank or those of the credit card association. In such embodiments, the 3rd Party Fee System Client Settlement Agent would intercept fulfillment and settlement requests and forward these to the 3rd Party Fee System for further processing, billing and distribution of proceeds, as required. The 3rd Party Fee System Client Settlement Agent may also intercept, or advised by the partner of, the transfer of funds, and transfer these to the 3rd Party Fee System for further processing, and the distribution of funds as required, such as the transfer of tax revenue to the respective taxing authorities." (Applicant's specification-as-filed, p. 35, lines 6-14).

L. "If the payment data is not part of an electronic fund transfer system, the 3rd Party Fee System Client Fulfillment Agent would forward the payment data to the 3rd Party Fee System for billing and fee distribution using alternative methods, such as

independent billing and invoicing of different clients, such as the Internet Payment Processing Gateway or invoicing the merchant directly." (Applicant's specification-as-filed, p. 35, lines 22-26).

Note that the descriptions of the payment processing gateway from the above portions of Applicant's specification are all exemplary descriptions, that is, they describe examples of functions that the payment processing gateway may perform and describe various options for a system including the payment processing gateway. However, they never specifically describe what are the necessary features of a payment processing gateway, that is, if an element is described as a payment processing gateway, what features must it necessarily have? In other words, there is no explicit definition of the term "payment processing gateway" in Applicant's specification. Nonetheless, the gist of the above passages is that the payment processing gateway is an intermediary that transmits communications between the following two sides: (i) the merchant and/or customer; and (ii) the financial institutions. Such communications may include: (i) transaction data from the merchant/customer side to the financial institutions for transaction authorization; (ii) transaction authorization response from the financial institution side to the merchant/customer side; and (iii) fulfillment notice from merchant/customer side to the financial institution side. The payment processing gateway is also described as possibly being the element that has access to the tax system. Again, note that these functions are not required by definition when the term

"payment processing gateway" is used; rather, they describe possible roles/functions of a payment processing gateway.

8. Since there is no explicit definition for "payment processing gateway" in Applicant's application, we next turn to the references of the art for a definition. The Microsoft Computer Dictionary (Microsoft Computer Dictionary, Fifth Edition, Redmond, WA, 2002; hereinafter referred to as Microsoft) has no definition entry for either "payment processing gateway" or "payment gateway." It does, however, define "gateway" as:

A device that connects networks using different communications protocols so that information can be passed from one to the other. A gateway both transfers information and converts it to a form compatible with the protocols used by the receiving network.

(Microsoft, p. 232). This definition seems overly general to apply very meaningfully to attempt to define "payment processing gateway."

Looking to other references of the art, an explicit definition for the term "payment processing gateway" still could not be found. However, explicit definitions for the term "payment gateway" were found. Businessline, "Business Line: India: Paying Thru Your Mouse!!" Chennai, January 24, 2001, p. 1 (hereinafter referred to as Businessline) states: "A payment gateway is a third party network that collects customer transactions from an e-commerce Web site and processes them through a banking or credit card system using its own certified secured servers" (Businessline, section A). This definition can be broadened by considering the disclosure of Credit Card News, "New Fraud Products May Mean Lower Costs for E-Merchants," October 15, 2000, pp. 1-2 (hereinafter referred to as Credit Card News) which states:

"Right now, payment gateways are not secure," says John Richards, chairman and chief executive. "Through our pre-integrated network, we're allowing issuers to offer a branded, totally secure payment gateway that will allow consumers to pay with the means of their choice, including debit cards, chip cards, and commercial cards. They will also be able to pay through the device of their choice, including cellular telephones, PDAs (personal digital assistants), and whatever comes next."

(Credit Card News, section A). The immediately preceding quotation sets forth that a payment gateway may, in fact, not be secure and still be a payment gateway.

Therefore, the "certified secured servers" element of the Businessline definition above is not a requirement to be a "payment gateway." Boyle, Michael P., Peterson, Jr., John M., Sample, William J., Schottenstein, Tamara L., and Sprague, Gary D., "The Emerging International Tax Environment for Electronic Commerce," Tax Management International Journal, June 11, 1999, pp. 357-382 (hereinafter referred to as Boyle) appears to provide a parenthetical definition of "payment gateway" when it states:

At the other end of the spectrum are the Internet storefronts selling online and offline products and services to consumers.³ The Internet will extend current retail store and mail/phone order consumer sales models. Sellers will have three primary components: (1) a storefront system (marketing materials, catalogue, ordering mechanism, customer service); (2) a back office system (accept, process and record transactions entered in the storefront); and (3) a payment gateway (validates and obtains credit card authorization and processes settlement).

(Boyle, p. 358, section A). While one could argue that the parenthetical gateway information is only exemplary language and not a definition, a definition of a payment gateway as an element which "validates and obtains credit card authorization and processes settlement" is in agreement with the language describing the "payment processing gateway" in Applicant's specification, as well as the other references discussed above. Note also that such parenthetical language in Boyle does not

mention the gateway being secure, reinforcing the above language of Credit Card News that indicates that security is not a required feature to be a "payment gateway." Due to the similarities between the "payment gateway" in the above references and the "payment processing gateway" in Applicant's specification, it appears that "payment gateway" is a reasonable synonym for "payment processing gateway" and thus that the above analysis defining "payment gateway" is reasonably applicable to defining "payment processing gateway." At the very least, in the absence of an explicit definition of "payment processing gateway," it seems to be the best option for defining "payment processing gateway" of which Examiner is aware.

9. Turning now to Agee, the question is what exactly is the third-party service provider system which Examiner has considered to be a payment processing gateway, and may that third-party service provider system properly be considered a payment processing gateway?

Agee, paragraphs [0084]-[0086], state:

In other embodiments, as illustrated in FIG. 7B, a merchant 154 may use a computer 154A to transmit the transaction information, through a gateway computer 160A, to a computer 62A at a third-party service provider 62 (lines AH and AI in FIG. 7B). As noted above, the gateway 160 may be bypassed in other embodiments. The third-party service provider computer 62A may forward the information to a computer 64A at a tax service provider 64 (line AJ in FIG. 7B) for determination of allocation of tax funds to various taxing entities. The tax service provider computer 64A then returns the information, including the tax allocation information, to the third party service provider computer 62A (line AK in FIG. 7B), which forwards the information to a computer 161A at a debit clearing house 161. In other embodiments, the merchant's computer 154A may bypass the third-party service provider 62 and transmit the information directly to the tax service provider computer 64A. In further embodiments, the third party service provider 62 and the tax service provider 64 may be a single entity, and the third party service provider computer 62A and the tax service provider computer 64A may be a single unit.

Referring again to FIG. 7A, the debit clearing house computer 61A then relays the information to a computer 58A at the consumer's bank 58 (line AM) for certain transactions such as debit cards and other card types. For other modes of payments, such as check cards, an acquirer computer and/or other third party service computer may be used to clear the transaction. Others such as check guarantees, check truncations, check conversions or others may be cleared through a third party clearinghouse, the central financial entity computer 67A or other. The transaction information includes data relating to the distribution of any tax on the transaction. The computer 58A at the consumer's bank 58 may then transfer funds to the computer 61A at the debit clearinghouse 61 (line AN). The debit clearinghouse computer 61A may then transmit an approval signal to the computer 54A of the merchant 54 through the gateway computer 60A, via lines AP and AQ, as illustrated in FIG. 7A, and transfer funds to a computer 63A at the merchant's bank 63 in the amount of the transaction less the tax portion (line AR). Again, in other embodiments, the gateway 60 may be bypassed.

In the embodiment illustrated in FIG. 7B, the debit clearing house computer 161A may transfer the funds to the third-party service provider computer 62A (line AO in FIG. 7B). The third-party service provider computer 62A may transmit an approval signal to the merchant's computer 154A via the gateway computer 160A (lines AP and AQ in FIG. 7B). The third-party service provider computer 62A may transmit the non-tax portion of the funds to a computer 163A at a merchant's bank 163 (line AR in FIG. 7B), and may forward the tax portion, along with tax distribution information, to a computer 167A at a central financial entity 167 (line AS in FIG. 7B) for distribution to the various taxing entity banks or financial account entities. It is understood that the third-party service provider computer 62A may bypass the central financial entity 167 and transmit the tax portion directly to the various taxing entity banks or financial account entities.

While the above passage relates partially to debit-card-like transactions, similar embodiments can be found in Agee in paragraphs [0055], [0070], and [0077], which more explicitly reference credit card transactions. In the passage quoted immediately above, note that:

A. The third-party service provider system may communicate transaction information from the merchant/customer side to the financial institution side for purposes of processing the transaction.

B. The third-party service provider system may communicate the transaction-processing-request response back to the merchant/customer side from the financial institution side.

C. The third-party service provider system may serve as the intermediary between the tax system and the rest of the network.

Functionally, when also considering the portions of Agee which explicitly reference credit card transactions, the third-party service provider system, in the embodiments chosen by the Examiner for the rejections, matches the "best-guess" definition of "payment processing gateway" developed in the above analysis. Therefore, Applicant's arguments with respect to this issue are not persuasive.

10. Furthermore, with reference to this issue, although not relied upon for the prior art rejections below in this Office action, please also consider Gryglewicz, U.S. Patent No. 6,993,502 B1. In particular, see Gryglewicz, column 40, line 55, through column 41, line 4, which discusses commerce gateways which act as intermediaries between merchants and a tax system.

11. Note further that simply dividing tasks between multiple entities was a very well-known business concept known as "Division of Labor." Note further that dividing tasks over multiple computers over a network was a very well-known computing concept known as "Distributed Computing."

12. Regarding Applicant's remaining prior art arguments, Applicant argues that the rejections are improper because the tax system in Agee does not possess all of the logic and function of the remaining three client logic engines of the instant invention,

and therefore that the combination of references would result in an inoperable embodiment of the invention. Examiner points out that the prior art rejections are under 35 U.S.C. 103, as opposed to 35 U.S.C. 102. Therefore, all of the elements/limitations of the references need not be found in a single one of the references. Sullivan, for example, was relied upon for much of the elements/limitations describing the configuration and functions of the tax system in the claims. Nonetheless, Examiner believes that the tax system of Agee was functionally sufficient to support the various disclosures for which Agee was cited in the prior art rejections. It is unclear to Examiner why details of the tax system in Sullivan could not be incorporated into the tax system of Agee for purposes of combining the two configurations, or why such a combination would be rendered inoperable, simply because Agee's tax system may result in having features which it did not have previously.

13. Applicant further argues that Agee does not provide a clear description of the function and features of the third party service provider system. Examiner has shown above in this Office action that Agee does disclose enough about the third party service provider system to show that it meets the "best-guess" definition of a "payment processing gateway" in the above analysis.

14. Applicant next argues:

Applicants have already noted that the third party service provider of Agee et al. must be in direct communication with the financial network. That is true regardless of whether or not the gateway of Agee et al. is present. Accordingly, when the gateway of Agee et al. is bypassed as relied upon by Examiner, the third party service provider of Agee et al. still remains in direct communication with the financial network. On the other hand, the instant third party service provider is not in direct communication with the financial network.

(Applicant response, p. 11, last full paragraph). Regarding the "instant third party service provider," Examiner does not believe the full term "third party service provider" appears anywhere in the current form of Applicant's claims. Examiner assumes from the context in which the term is used above that Applicant is referring to its tax system provider (see Applicant's claims, claim 11). In interpreting the prior art rejections, the third party service provider system of Agee should be considered equivalent to the payment processing gateway of Applicant's claims, not the tax system provider of Applicant's claims. In addition, in interpreting the prior art rejections, the tax system of Applicant's claims should be considered equivalent to the "tax service provider computer" in Agee. In determining the applicability of the prior art, what an element is should be the decisive matter, not what the element is called. When the above interpretation is applied to the prior art rejections, Examiner believes that Applicant's argument immediately above is no longer relevant.

15. Regarding Applicant's arguments with respect to the prior art rejections of claims 22 and 23, Examiner believes that the amendments to the prior art rejections below in this Office action render those arguments to be no longer applicable.

Claim Rejections - 35 USC § 112

16. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

17. Claim rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As per Claims 1, 5, 7-20, and 24, these claims are indefinite because it is unclear whether claim 1 is a system claim (as indicated by the preambles of claim 1 and its dependent claims) or a software claim (as indicated by the software language at the end of the claim).

As per Claim 16, the claim contains an action that is to be performed if a particular condition is present. However, the claim does not also state what action occurs if that particular condition is not present. This renders the claim to be indefinite. The conditional statement being referred to here is: "determines if third party payment data is to be added to the transaction data information packet, and, if so,..."

Claim Rejections - 35 USC § 103

18. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

19. Claims 1, 5, and 7-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sullivan, U.S. Patent Application Publication No. US 2003/0093320 A1, in view of Agee et al., U.S. Patent Application Publication No. US 2003/0097303 A1.

As per **Claim 1**, Sullivan discloses:

- a client logic engine-based system for handling calculation and payment of one or more third party fees due to a third party as part of one or more wide area network transactions between a first party and a second party, wherein the first, second and third parties are users of distinct first, second and third nodes, respectively, of the wide area network (paragraphs [0005]-[0007]; paragraph [0039]; paragraph [0046]; paragraph [0124]-[0126]);

- a wide area network comprising multiple nodes enabling the transfer of transaction data information packets between the first party and the second party (paragraph [0046]);

- a transaction client logic engine, residing on a node within the wide area network distinct from and at a different locale than the nodes of the first and the second party, that: includes rules of logic for the determination of what action is required on transaction data information packets; receives one or more transaction data information packets related to one or more wide area network transactions between the first and the second party; determines what action is required on received transaction data information packets; and based upon said determination, transmits the information packets: between a third party fee calculation client logic engine and itself, or between a third party fee fulfillment client and itself (paragraphs [0005]-[0007]; paragraph [0039]; paragraph [0046]; paragraph [0054]; paragraph [0061]; paragraph [0124]-[0126]; paragraphs [0130]-[0131]);

- a third party fee calculation client logic engine, residing on a node within the wide area network distinct from the nodes of the first and the second party, that: includes rules of logic for the determination of fees owed to a third party on one or more transactions between the first and the second party; receives one or more information packets from a transaction client logic engine; calculates the third party fees owed on the transaction between the first and the second party; and transmits to the transaction client logic engine or a third party fee fulfillment client logic engine, a transaction data information packet including said third party fees owed (paragraphs [0005]-[0007];

paragraph [0039]; paragraph [0046]; paragraph [0054]; paragraph [0061]; paragraphs [0124]-[0126]; paragraphs [0130]-[0131]);

- a third party fee fulfillment client logic engine, residing on a node within the wide area network distinct from the nodes of the first and the second party, that: includes rules of logic for the determination of fees owed to one or more third parties on one or more transactions between the first and the second party; receives from the transaction client logic engine, or the third party fee calculation logic engine, one or more information packets containing data for the transfer of transaction funds between the first and the second party; determines the third party fees owed on the transaction between the first and the second party; provides authorization and fulfillment data for the third party fees owed on the transaction between the first and the second party; and transmits to the transaction client logic engine one or more information data packets comprising authorization and fulfillment data for the transfer of funds; wherein the system causes the deduction of the third party fees owing from funds transferred between the first and the second party; and causes the transfer of the third party fees to said one or more third parties (Figure 1; paragraphs [0005]-[0007]; paragraph [0038]; paragraph [0039]; paragraph [0046]; paragraph [0054]; paragraph [0061]; paragraph [0122]; paragraphs [0124]-[0126]; paragraphs [0130]-[0131]);

- wherein at each occurrence, a node is selected from a computer, server, or gateway; and the first party is a consumer and the second party is a merchant; at least one node is a computer program storage device readable by a computer, tangibly embodying a computer program or instructions executable by the computer to perform

method steps for providing a transaction client logic engine, a third party fee calculation client logic engine, or a third party fee fulfillment client logic engine (Figure 1; Figure 3F; paragraphs [0036]-[0040]; paragraphs [0124]-[0131]).

Sullivan fails to disclose wherein the tax system components are divided in the manner specified in claim 1 among multiple computers at separate nodes of the network which communicate with each other. However, Sullivan discloses that its system may be divided among multiple computers at separate nodes of the network which communicate with each other (paragraphs [0130]-[0131]). It would have been obvious to one of ordinary skill in the art to modify the invention of Sullivan such that the tax system components are divided in the manner specified in claim 1 among multiple computers at separate nodes of the network which communicate with each other; in doing so, its system would be divided among multiple computers at separate nodes of the network which communicate with each other, as disclosed by Sullivan. The modification would have been obvious because the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Sullivan fails to disclose a payment processing gateway, residing on a node within the wide area network distinct from and at a different locale than the nodes of the first and the second party, that: transmits to a transaction client logic engine one or more transaction data information packets related to one or more wide area network transactions between the first and the second party; receives from the transaction client

logic engine or a third party fee fulfillment client logic engine one or more information data packets comprising authorization and fulfillment data for the transfer of funds; and transmits to a financial network the one or more information data packets comprising authorization and fulfillment data for the transfer of funds. Agee et al. discloses a payment processing gateway, residing on a node within the wide area network distinct from and at a different locale than the nodes of the first and the second party, that: transmits to a transaction client logic engine one or more transaction data information packets related to one or more wide area network transactions between the first and the second party; receives from the transaction client logic engine or a third party fee fulfillment client logic engine one or more information data packets comprising authorization and fulfillment data for the transfer of funds; and transmits to a financial network the one or more information data packets comprising authorization and fulfillment data for the transfer of funds (paragraph [0043]; paragraph [0045]; paragraphs [0084]-[0086]; in this case, the third-party service provider 62 system can be regarded as a payment processing gateway). It would have been obvious to one of ordinary skill in the art to modify the invention of Sullivan such that it includes a payment processing gateway, residing on a node within the wide area network distinct from and at a different locale than the nodes of the first and the second party, that: transmits to a transaction client logic engine one or more transaction data information packets related to one or more wide area network transactions between the first and the second party; receives from the transaction client logic engine or a third party fee fulfillment client logic engine one or more information data packets comprising authorization and fulfillment

data for the transfer of funds; and transmits to a financial network the one or more information data packets comprising authorization and fulfillment data for the transfer of funds, as disclosed by Agee, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Sullivan fails to disclose the tax system receives transaction data from the payment processing gateway. Agee et al. further discloses the tax system receives transaction data from the payment processing gateway (paragraph [0043]; paragraph [0045]; paragraphs [0084]-[0086]; in this case, the third-party service provider 62 system can be regarded as a payment processing gateway). It would have been obvious to one of ordinary skill in the art to modify the invention of Sullivan such that the tax system receives transaction data from the payment processing gateway, as disclosed by Agee et al., since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Sullivan fails to disclose the payment processing gateway is on a node different than the tax system. Agee further discloses the payment processing gateway is on a node different than the tax system (paragraph [0043]; paragraph [0045]; paragraph [0063]; paragraphs [0084]-[0086]; in this case, the third-party service provider 62 system can be regarded as a payment processing gateway). It would have been

obvious to one of ordinary skill in the art to modify the invention of Sullivan such that the payment processing gateway is on a node different than the tax system, as disclosed by Agee, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

As per Claim 5, Sullivan fails to disclose wherein the tax system components are divided in the manner specified in claim 1 among multiple computers at separate nodes of the network which communicate with each other. However, Sullivan discloses that its system may be divided among multiple computers at separate nodes of the network which communicate with each other (paragraphs [0130]-[0131]). It would have been obvious to one of ordinary skill in the art to modify the invention of Sullivan such that the tax system components are divided in the manner specified in claim 1 among multiple computers at separate nodes of the network which communicate with each other; in doing so, its system would be divided among multiple computers at separate nodes of the network which communicate with each other, as disclosed by Sullivan. The modification would have been obvious because the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

As per **Claim 7**, Sullivan further discloses wherein the wide area network is the Internet (paragraph [0039]; paragraph [0046]).

As per **Claim 8**, Sullivan further discloses wherein the merchant is an on-line merchant having a website resident on a node of the wide area network, the transaction is an on-line electronic transaction conducted over the wide area network, and the consumer is obtaining a good and/or service from the merchant (paragraph [0039]; paragraph [0046]).

As per **Claim 9**, Sullivan further discloses wherein the electronic transaction is an e-commerce payment transaction (paragraph [0046]).

As per **Claim 10**, Sullivan further discloses wherein at least one of the third parties is a government agency and at least one of the third party fees is sales tax (paragraph [0007]; paragraph [0036]).

As per **Claim 11**, Sullivan further discloses wherein at least one of the third parties is a logic engine service provider that controls the system and provides for calculation and/or payment of at least one third party fee to the government agency (paragraphs [0005]-[0007]; paragraph [0061]; paragraph [0122]; paragraph [0124]-[0126]).

As per **Claim 12**, Sullivan further discloses wherein at least one of the third party fees is a fee due to the logic engine service provider (paragraph [0122]; paragraph [0124]-[0126]).

As per **Claim 13**, Sullivan further discloses a logic protocol that calculates the amount of third party fee due to the logic engine service provider (paragraph [0122]; paragraph [0124]-[0126]).

As per **Claim 14**, Sullivan further discloses a logic protocol that affects payment of a third party fee to the logic engine service provider (paragraph [0122]; paragraph [0124]-[0126]).

As per **Claim 15**, Sullivan further discloses a logic protocol that determines if a transaction data information packet is to be transmitted to the third party fee calculation client logic engine or the third party fee fulfillment client logic engine (paragraphs [0005]-[0007]; paragraph [0039]; paragraph [0046]; paragraph [0054]; paragraph [0061]; paragraph [0124]-[0126]; paragraphs [0130]-[0131]).

As per **Claim 16**, Sullivan further discloses a logic protocol that determines if third party payment data is to be added to the transaction data information packet, and, if so, adds the payment data (paragraphs [0005]-[0007]; paragraph [0046]; paragraph [0061]; paragraph [0122]; paragraph [0124]-[0126]).

As per **Claim 17**, Sullivan fails to disclose an authorization and capture client agent. However, Examiner hereby takes Official Notice that that element/limitation was well-known to one of ordinary skill in the art at the time of applicants' invention. It would have been obvious to one of ordinary skill in the art at the time of applicants' invention to modify the invention of Sullivan such that it includes an authorization and capture client agent, as disclosed by Official Notice. Motivation is provided in that Examiner hereby takes Official Notice that it was well-known to one of ordinary skill in the art at the time of applicants' invention that an authorization and capture client agent is useful for processing credit card payments in online transactions.

As per **Claim 18**, Sullivan further discloses a service provider fee logic engine, residing on a node within the wide area network, that includes rules of logic for the determination of a third party fee owed to a service provider of the system (paragraphs [0005]-[0007]; paragraph [0039]; paragraph [0046]; paragraph [0122]; paragraph [0124]-[0126]).

As per **Claim 19**, Sullivan further discloses wherein the third party fee due to the service provider is a fixed fee (paragraph [0122]).

As per **Claim 20**, Sullivan further discloses wherein the third party fee due to the service provider is a prorated or incremental fee (paragraph [0122]).

As per Claim 21, Sullivan discloses:

- a computer program storage device readable by a computer, tangibly embodying a computer program or instructions executable by the computer to perform method steps for providing a transaction client logic engine, residing on a node within a wide area network (paragraphs [0005]-[0007]; paragraph [0039]; paragraphs [0124]-[0126]);

- receiving one or more transaction data information packets related to one or more wide area network transactions between a first party and a second party (paragraphs [0005]-[0007]; paragraph [0039]; paragraph [0046]; paragraphs [0124]-[0126]);

- determining what action is required on received transaction data information packets (paragraphs [0005]-[0007]; paragraph [0039]; paragraph [0046]; paragraphs [0124]-[0126]);

- based upon said determination, transmitting the information packets between a third party fee calculation client logic engine, if present, and itself, or between a third party fee fulfillment client logic engine, if present, and itself (paragraphs [0005]-[0007]; paragraph [0039]; paragraph [0046]; paragraph [0054]; paragraph [0061]; paragraph [0124]-[0126]; paragraphs [0130]-[0131]);

- wherein the transaction client logic engine resides: on a node of a wide area network and at a different locale than the first party and second party; comprises rules of logic for the determination of what action is required on transaction data information

packets; and is adapted to receive from a third party fee fulfillment client logic engine one or more information data packets comprising authorization and fulfillment data for the transfer of funds (Figure 1; paragraphs [0005]-[0007]; paragraph [0038]; paragraph [0039]; paragraph [0046]; paragraph [0054]; paragraph [0061]; paragraphs [0124]-[0126]; paragraphs [0130]-[0131]).

Sullivan fails to disclose wherein the tax system components are divided in the manner specified in claim 21 among multiple logic engines which communicate with each other. However, Sullivan discloses that its system may be divided among multiple logic engines which communicate with each other (paragraphs [0130]-[0131]). It would have been obvious to one of ordinary skill in the art to modify the invention of Sullivan such that the tax system components are divided in the manner specified in claim 21 among multiple logic engines which communicate with each other; in doing so, its system would be divided among multiple logic engines which communicate with each other, as disclosed by Sullivan. The modification would have been obvious because the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Sullivan fails to disclose the tax system receives transaction data from the payment processing gateway. Agee et al. discloses the tax system receives transaction data from the payment processing gateway (paragraph [0043]; paragraph [0045]; paragraphs [0084]-[0086]; in this case, the third-party service provider 62 system can be

regarded as a payment processing gateway). It would have been obvious to one of ordinary skill in the art to modify the invention of Sullivan such that the tax system receives transaction data from the payment processing gateway, as disclosed by Agee et al., since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Sullivan fails to disclose the tax system transmitting said one or more information data packets to the payment processing gateway. Agee further discloses the tax system transmitting said one or more information data packets to the payment processing gateway (paragraph [0043]; paragraph [0045]; paragraphs [0084]-[0086]; in this case, the third-party service provider 62 system can be regarded as a payment processing gateway). It would have been obvious to one of ordinary skill in the art to modify the invention of Sullivan such that the tax system transmits said one or more information data packets to the payment processing gateway, as disclosed by Agee, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Sullivan fails to disclose the tax system is at a different locale than the payment processing gateway. Agee further discloses the tax system is at a different locale than the payment processing gateway (paragraph [0043]; paragraph [0045]; paragraph

[0063]; paragraphs [0084]-[0086]; in this case, the third-party service provider 62 system can be regarded as a payment processing gateway). It would have been obvious to one of ordinary skill in the art to modify the invention of Sullivan such that the tax system is at a different locale than the payment processing gateway, as disclosed by Agee, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

As per Claim 22, Sullivan discloses:

- a computer program storage device readable by a computer, tangibly embodying a computer program or instructions executable by the computer to perform method steps for providing a third party fee calculation client logic engine, residing on a node within a wide area network distinct from the nodes of a first party and a second party (paragraphs [0005]-[0007]; paragraph [0039]; paragraphs [0124]-[0126]);
- receiving one or more information packets from a transaction client logic engine (paragraphs [0005]-[0007]; paragraph [0039]; paragraph [0046]; paragraph [0054]; paragraph [0061]; paragraph [0124]-[0126]; paragraphs [0130]-[0131]);
- calculating the third party fees owed on a transaction between the first and the second party (paragraphs [0005]-[0007]; paragraph [0039]; paragraph [0046]; paragraphs [0124]-[0126]);

- transmitting to the transaction client logic engine, a transaction data information packet including said third party fees owed (paragraphs [0005]-[0007]; paragraph [0039]; paragraph [0046]; paragraph [0054]; paragraph [0061]; paragraph [0124]-[0126]; paragraphs [0130]-[0131]);

- wherein the third party fee calculation client logic engine: resides on a node with a wide area network distinct from and at a different locale than the nodes of a first party and a second party; comprises rules of logic for the determination of fees owed to a third party on one or more transactions between the first and the second party (Figure 1; paragraphs [0005]-[0007]; paragraph [0038]; paragraph [0039]; paragraph [0046]; paragraphs [0124]-[0126]; paragraphs [0130]-[0131]).

Sullivan fails to disclose wherein the tax system components are divided in the manner specified in claim 22 among multiple logic engines which communicate with each other. However, Sullivan discloses that its system may be divided among multiple logic engines which communicate with each other (paragraphs [0130]-[0131]). It would have been obvious to one of ordinary skill in the art to modify the invention of Sullivan such that the tax system components are divided in the manner specified in claim 22 among multiple logic engines which communicate with each other; in doing so, its system would be divided among multiple logic engines which communicate with each other, as disclosed by Sullivan. The modification would have been obvious because the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one

of ordinary skill in the art would have recognized that the results of the combination were predictable.

Sullivan fails to disclose said one or more information packets from the tax system having been transmitted to the tax system by a payment processing gateway. Agee discloses said one or more information packets from the tax system having been transmitted to the tax system by a payment processing gateway (paragraph [0043]; paragraph [0045]; paragraphs [0084]-[0086]; in this case, the third-party service provider 62 system can be regarded as a payment processing gateway). It would have been obvious to one of ordinary skill in the art to modify the invention of Sullivan such that said one or more information packets from the tax system have been transmitted to the tax system by a payment processing gateway, as disclosed by Agee, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Sullivan fails to disclose the tax system resides on a node distinct from and at a different locale than the payment processing gateway. Agee further discloses the tax system resides on a node distinct from and at a different locale than the payment processing gateway (paragraph [0043]; paragraph [0045]; paragraph [0063]; paragraphs [0084]-[0086]; in this case, the third-party service provider 62 system can be regarded as a payment processing gateway). It would have been obvious to one of ordinary skill in the art to modify the invention of Sullivan such that the tax system

resides on a node distinct from and at a different locale than the payment processing gateway, as disclosed by Agee, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

As per Claim 23, Sullivan discloses:

- a computer program storage device readable by a computer, tangibly embodying a computer program or instructions executable by the computer to perform method steps for providing a third party fee fulfillment client logic engine, residing on a node within the wide area network distinct from the nodes of a first party and a second party (paragraphs [0005]-[0007]; paragraph [0039]; paragraph [0122]; paragraphs [0124]-[0126]);

- receiving from a transaction client logic engine, if present, or a third party fee calculation client logic engine, if present, one or more information packets containing data for the transfer of transaction funds between the first and the second party (paragraphs [0005]-[0007]; paragraph [0039]; paragraph [0046]; paragraphs [0124]-[0126]);

- determining the third party fees owed on a transaction between the first and the second party (paragraphs [0005]-[0007]; paragraph [0039]; paragraph [0046]; paragraph [0054]; paragraph [0061]; paragraph [0124]-[0126]; paragraphs [0130]-[0131]);

- providing authorization and fulfillment data for the third party fees owed on the transaction between the first and the second party (paragraphs [0005]-[0007]; paragraph [0039]; paragraph [0046]; paragraph [0054]; paragraph [0061]; paragraph [0124]-[0126]; paragraphs [0130]-[0131]);

- wherein the third party fee fulfillment client logic engine: causes the deduction of the third party fees owing from funds transferred between the first and the second party (paragraphs [0005]-[0007]; paragraph [0039]; paragraph [0046]; paragraph [0054]; paragraph [0061]; paragraph [0124]-[0126]; paragraphs [0130]-[0131]);

- causes the transfer of the third party fees to said one or more third parties (paragraphs [0005]-[0007]; paragraph [0039]; paragraph [0046]; paragraph [0054]; paragraph [0061]; paragraph [0124]-[0126]; paragraphs [0130]-[0131]);

- resides on a node with a wide area network distinct from and at a different locale than the nodes of a first party and a second party (Figure 1; paragraphs [0005]-[0007]; paragraph [0038]; paragraph [0039]; paragraph [0122]; paragraphs [0124]-[0126]; paragraphs [0130]-[0131]);

- comprises rules of logic for the determination of fees owed to one or more third parties on one or more transactions between the first and the second party (paragraphs [0005]-[0007]; paragraph [0039]; paragraph [0046]; paragraphs [0124]-[0126]).

Sullivan fails to disclose wherein the tax system components are divided in the manner specified in claim 23 among multiple logic engines which communicate with each other. However, Sullivan discloses that its system may be divided among multiple logic engines which communicate with each other (paragraphs [0130]-[0131]). It would

have been obvious to one of ordinary skill in the art to modify the invention of Sullivan such that the tax system components are divided in the manner specified in claim 23 among multiple logic engines which communicate with each other; in doing so, its system would be divided among multiple logic engines which communicate with each other, as disclosed by Sullivan. The modification would have been obvious because the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Sullivan fails to disclose transmitting to a payment processing gateway one or more information data packets from the tax system. Agee discloses transmitting to a payment processing gateway one or more information data packets from the tax system (paragraph [0043]; paragraph [0045]; paragraphs [0084]-[0086]; in this case, the third-party service provider 62 system can be regarded as a payment processing gateway). It would have been obvious to one of ordinary skill in the art to modify the invention of Sullivan such that it transmits to a payment processing gateway one or more information data packets from the tax system, as disclosed by Agee, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Sullivan fails to disclose the tax system is on a node different than the payment processing gateway. Agee further discloses the tax system is on a node different than the payment processing gateway (paragraph [0043]; paragraph [0045]; paragraph [0063]; paragraphs [0084]-[0086]; in this case, the third-party service provider 62 system can be regarded as a payment processing gateway). It would have been obvious to one of ordinary skill in the art to modify the invention of Sullivan such that the tax system is on a node different than the payment processing gateway, as disclosed by Agee, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

As per **Claim 24**, Sullivan fails to disclose wherein the financial network comprises an acquirer bank. Agee further discloses wherein the financial network comprises an acquirer bank (paragraph [0043]). It would have been obvious to one of ordinary skill in the art to modify the invention of Sullivan such that the financial network comprises an acquirer bank, as disclosed by Agee, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Conclusion

20. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Gryglewicz, U.S. Patent No. 6,993,502 B1. In particular, see Gryglewicz, column 40, line 55, through column 41, line 4, which discusses commerce gateways which act as intermediaries between merchants and a tax system.

21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan Erb whose telephone number is (571) 272-7606. The examiner can normally be reached on Mondays through Fridays, 8:30 AM to 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on (571) 272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>.

Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Nathan Erb
Examiner
Art Unit 3628

nhe

/JOHN W HAYES/
Supervisory Patent Examiner, Art Unit 3628